Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction

20 August 2018

English only

2018 Meeting
Geneva, 4-7 December 2018

Meeting of Experts on Strengthening National Implementation
Geneva, 13 August 2018
Items 4, 5, 6, 7 and 8 of the agenda
Measures related to Article IV of the Convention

Confidence Building Measures (CBM) submissions in terms of quantity and quality

Various ways to promote transparency and confidence building under the Convention

Role of international cooperation and assistance under Article X, in support of strengthening the implementation of the Convention

Issues related to Article III, including effective measures of export control, in full conformity with all Articles of the Convention, including Article X

Strengthening National Implementation

Submitted by the Bolivarian Republic of Venezuela on behalf of the Non-Aligned Movement and other States Parties to the Biological and Toxin Weapons Convention

I. Introduction

1. NAM and other States Parties to the BWC welcome that during the 2017 Meeting of States Parties to the Biological Weapons Convention (BWC) reached consensus on an intersessional programme from 2018 to 2020.

2. The purpose of the ISP is to discuss, and promote common understanding and effective action on those issues identified for inclusion in the intersessional programme. The work in the intersessional period will be guided by the aim of strengthening the implementation of all articles of the Convention in order to better respond to current challenges.

3. The Group of NAM and other States Parties to the BWC highlights that the Intersessional Period (ISP) is important in the absence of detailed treaty provisions for implementation. We believe that the ISP should aim at achieving progress in the implementation of all articles of the Convention in a balance, comprehensive and consensus based approach.

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II. Agenda item 4: Measures related to Article IV of the Convention

4. NAM and other States Parties to the BWC note that various issues related to national implementation have been discussed at length during the Review Conferences as well as in the last three inter-sessional periods.

5. We believe that it is useful for States Parties to learn from each other by sharing national experiences in the implementation of the Convention and to explore as appropriate ways and means to enhance national implementation of all provisions of the Convention, including through regional and sub-regional cooperation.

6. There are diverse national situations for each of the States Parties but their commitments and obligations under the Convention are the same. Some States Parties, especially developing countries, may require assistance and cooperation to strengthen their national capacities for the full implementation of all the provisions of the Convention. States Parties which are in a position to provide assistance and cooperation to other States Parties in capacity building to implement the Convention should do so, if requested.

7. NAM stresses that the national implementation of the Convention as required under Article IV of the Convention requires commitments towards the implementation of all provisions of the Convention. In this regard, NAM is of the view that the full, effective and non-discriminatory implementation of Article X is of high importance.

8. The case of H5N1 showed that we still have controversy around the areas that relate to the national implementation of the Convention and that some countries still don't have a clear picture about the authorized and unauthorized activities in the framework of the BWC. We believe that this case is very complex and important and its examination should be carefully continued in the meetings of the BWC as it covers different aspects that might affect the implementation of the Convention.

9. The Group emphasizes that activities related to bio-defence should not be a guise for offensive biological activities. In this regard, it is necessary for States Parties to work together for enhancing national implementation by sharing best practices and experiences, exchange of information on enforcement of national legislation, on possible ways for strengthening national institutions and coordination among national law enforcement institutions and finally building national capacity through international cooperation.

III. Agenda Item 5: Confidence Building Measures (CBM) submissions in terms of quantity and quality

10. NAM and other States Parties to the BWC underscore that the purpose of CBMs under the BWC as agreed by States Parties at the Second Review Conference and reconfirmed at subsequent Review Conferences is to prevent or reduce the occurrence of ambiguities, doubts and suspicions and in order to improve international cooperation in the field of peaceful biological activities. CBMs are a tool of transparency and building trust and confidence among States Parties in the implementation of the Convention. They cannot be a tool to assess compliance for which the only method is a legally binding mechanism with verification provisions.

11. The Group notes that further amendments to the CBMs forms were agreed to at the Seventh Review Conference in a constructive spirit shown by all States Parties. These amendments were aimed inter alia at increasing the number of States Parties which submit CBMs returns. NAM and Other States Parties hope that the new CBMs forms lead to an increase in the number of CBMs submissions as only a limited number of States Parties

currently make CBMs submissions. Having agreed to the amendments to CBMs forms at the Review Conference, we believe there is a need to allow time to the national stakeholders to adjust to the amended forms.

12. NAM and Other States Parties are hopeful that the issue of CBMs will not be overemphasized in a manner that complicates the whole CBMs process.

13. The Group is of the view that inclusion of CBMs as a topic to be considered under MX3 "strengthening national implementation" as agreed in 2017 MSP, shall not in any way set a precedent in the consideration and inclusion of any common understanding and effective action on this issue under strengthening National Implementation. While reiterating that CBM submission as agreed, is a voluntary annual measure in the absence of a comprehensive legally binding instrument for BTWC, the Group emphasizes that CBMs shall in full conformity with the decisions made in previous Review Conferences, be dealt with under article V and should be reflected in the factual report of this MX accordingly.

IV. Agenda Item 6: Various ways to promote transparency and confidence building under the Convention

14. NAM has noted that proposals for peer review and compliance assessment. Some States see these as potential further measures for implementation of the Convention. In this regard, NAM and other States Parties would like to emphasize that all States Parties are obliged to take measures for national implementation of the Convention by virtue of them being Parties to the Convention. They do so by enacting national laws, regulations, policies and other measures and initiatives in accordance with their constitutional requirements. Nevertheless, those proposals could be used by States Parties to exchange ideas on what further measures and initiatives could be adopted at a national level for the implementation of the Convention's provisions. Compliance with the Convention is a concept different from national implementation.

15. In an international legal instrument such as the BWC, the assurance of compliance with the Convention's provisions has to be undertaken collectively through appropriate multilateral verification arrangements. In the past, useful work has been done in this regard under the BWC in the Ad-hoc Group, and NAM continues to attach high importance to preserving and eventually resuming that work.

16. While the Group recalls its position on proposals related to compliance assessments, reiterates that such proposals should not distract the attention of States Parties away from strengthening the Convention in all its aspects including the need for a verification mechanism. NAM and other States Parties to the Convention reiterate the importance of multilateral negotiations aimed at concluding a non-discriminatory, legally binding agreement, including verification provisions, dealing with all Articles of the Convention in a balanced and comprehensive manner.

V. Agenda Item 7: Role of international cooperation and assistance under Article X, in support of strengthening the implementation of the Convention

17. NAM and other States Parties to the BWC attach great importance to the full, effective and non-discriminatory implementation of all provisions of the Convention; we are of the view that there exists a delicate balance between various provisions of the Convention. Hence, we are of the firm belief that our efforts towards strengthening the

implementations of the Convention shall be made in manner to strengthen the Convention in its entirety.

18. The growing trend of various national implementation practices, in the deficiency of the verification mechanism for BTWC, have created different national levels of restrictions, barriers and/or limitations for legitimate trade and transfer of biological agents and toxins, equipmentS, materials and related technologies for peaceful purposes. Inequitable national implementation models intrinsically create obstacles for developing countries to manage their public health needs. Consequently, any national implementation measure should be in proportion to public health issues to facilitate, but not hinder the fullest possible exchange for peaceful purposes in implementing Article X.

19. NAM and other States Parties to the BWC are of the firm belief the States Parties have the obligation towards the implementation of all provisions of the Convention. To this end, an appropriate mechanism is needed to ensure that laws and regulations of the States Parties do not hinder international exchange and cooperation under Article X and allows for the fullest possible exchange of equipment, materials and technology for peaceful purposes among States Parties.

20. In this connection, the Conference should agree on addressing the following measures:

(a) national legislations which are consistent and in conformity with all provisions of the Convention

(b) enacting necessary legislations and/or regulations to ensure the fullest possible exchange of equipment, materials and technologies for peaceful purposes,

(c) enacting necessary legislations that any violation of Article X would be prosecuted,

(d) necessary measures to redress and remedy the situations arising from the violation of obligations under Article X, committed by any legal or natural persons,

(e) reviewing national laws and regulations governing international exchanges and transfers to ensure that they are in full conformity with the obligations undertaken under Article X,

21. We are of the view that any measures to strengthen the implementation of the Convention including national implementation should be pursued in a holistic manner. In this regard, we recall the concrete measures to be developed for the full, effective and non-discriminatory implementation of Article X called for by NAM in BWC/MSP/2018/MX.1/WP.5, dated 3 August 2018. Such an approach would ensure the integrity and viability of the Convention and its balanced implementation.

VI. Agenda Item 8: Issues related to Article III, including effective measures of export control, in full conformity with all Articles of the Convention, including Article X

22. NAM and other States Parties to the BWC believe that it is imperative that any export control measures adopted by States Parties at national level should be in full conformity with Convention obligations and create an environment conducive to the full, effective and non-discriminatory implementation of all Convention provisions, and should not in any way adversely affect the rights and obligations of States Parties under the Convention. Non-proliferation efforts through maintaining export controls are best

addressed through multilaterally, non-discriminatory negotiated guidelines to preserve the integrity and the delicate balance that exists in the Convention.

23. It is crucial to know that the Convention has established a system with equal rights and obligations based on the principle of equal treatment of all States Parties. Therefore, national implementation measures should not create undue restrictions among States Parties which would hinder the full, effective and non-discriminatory implementation of Article X.

24. NAM and other States Parties to the BWC reiterates that States Parties should not use the provisions of this Article to impose restrictions and/or limitations on transfers for purposes consistent with the objectives and provisions of the Convention of scientific knowledge, technology, equipment and materials under Article X.